

How to Update Subdivision Indentures

Subdivision trust indentures are put in place to protect and maintain the aesthetics of common amenities through the collection of annual and special assessments. Indentures set out the physical boundaries of the subdivision, describe the responsibilities and powers of the association, and detail the rules and procedures by which the subdivision operates. Subdivision trust indentures are legally binding recorded documents recognized by the State of Missouri and recorded with the St. Louis County Recorder of Deeds.

In that subdivision indentures vary from subdivision to subdivision, it would be hard to provide sample subdivision trust indentures. Some indentures are brief and others are quite lengthy depending on the attorney who prepared them, the desires of the subdivision residents, the size of the subdivision, and the amount of common ground and privately maintained streets, recreational, or other facilities. However, there are several common components to indentures:

- Definitions of key terms.
- Duration of indentures.
- Powers and duties of Board of Trustees.
- Rights and responsibilities of the subdivision association.
- Membership and voting rights.
- Maintenance and services provided.
- Annual and special assessments.
- Delinquent assessments and remedies.
- Finance and borrowing provisions.
- Use restrictions.
- Architectural control and design review.
- Amendment provisions.
- General provisions.
- By-laws.

Indentures also dictate the process for electing subdivision trustees. Working under the constraints of the indentures, trustees oversee the collection of annual and special assessments and the maintenance of the subdivision. For more information on the roles and responsibilities of subdivision trustees, please see the *Trustee Corner* portion of this website.

Amending or Updating Your Indentures:

Many subdivision associations are finding that their indentures are becoming outdated or lack certain provisions. Yet, many of these associations have difficulties when it comes to amending their indentures, making it important to have a solid amendment provision within their indentures.

From time to time, it becomes necessary to amend the indentures of a subdivision. Reasons to amend could include changes in trustee members, association assessments levied, building rules, the election of new trustees, the language contained in the indentures, etc. Most often, amendments to subdivision trust indentures are drafted by an attorney retained by the Board of Trustees. Once the desired changes are made, the board will call a meeting of the subdivision residents. At that meeting, the homeowners will vote to approve the amendments. If the

amendments receive the appropriate number of positive votes, the amended indentures are ready to be signed by the Board of Trustees and recorded. The amended indentures are filed with the St. Louis County Recorder of Deeds. Depending upon the instructions contained in the indentures themselves, the amendments may or may not require the signature of St. Louis County Director of Planning or the municipality in which the subdivision is located. Generally, all the procedures for amending the indentures will be contained in the body of the indentures as one of the clauses. Also, the St. Louis County Department of Planning should be notified of trustee changes as well as be provided with the contact information for the new trustees.

It is recommended that subdivision associations retain legal counsel when drafting indentures for the first time or when making significant amendments. Since indentures are legally binding, it is helpful to have an attorney assist with drafting indentures that will be enforceable and conform to State of Missouri and municipal or county regulations.

Whether a subdivision is in an unincorporated area or a municipality, copies of all recorded subdivision trust indentures can be acquired from the St. Louis County Recorder of Deeds for a per-page fee by calling (314) 615-2500.

To locate an attorney to assist your subdivision, please contact:
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